

### REMARKS

Claims 104-110 and 112-167 are pending in the present Application. No claims are being amended in this response.

The Examiner has rejected Claims 104-110 and 112-167 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-108 of U.S. Patent No. 6,338,809 by Hampden-Smith et al.. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other because they overlap to such an extent that it would have been obvious to one of ordinary skill in the art of the time of the instant invention to use the instantly claimed invention as that of the patented claims because the instantly claimed invention is encompassed by the patented claims.

Therefore, Applicants enclose a Terminal Disclaimer disclaiming the terminal portion of the present application over that of U.S. Patent No. 6,338,809. In view of the foregoing, Applicants respectfully submit that the claims are now in condition for allowance.

Applicants respectfully request reconsideration of the present application. The fee for the Terminal Disclaimer was previously submitted. It is not believed that any additional fees are owed, however any such additional fees can be charged to deposit account No. 50-1419.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: 

David F. Dockery  
Registration No. 34,323  
3151 South Vaughn Way, Suite 411  
Aurora, Colorado 80014  
(303) 338-0997

Date: June 1, 2004